



Alabama Credit Union League



League of Southeastern Credit Unions

August 18, 2009

Ms. Jennifer Johnson
Secretary of the Board
Board of Governors of the Federal Reserve System
20th Street South and Constitution Avenue NW
Washington DC, 20551

Dear Board of Governors:

On behalf of the League of Southeastern Credit Unions, representing over 300 credit unions in Alabama and Florida, serving more than 5 million credit union members, please accept these comments to the interim final rule enforcing provisions of the Credit Card Accountability, Responsibility, and Disclosure Act of 2009 (CARD Act).

We applaud some of the provisions of the CARD Act, as it was originally intended by Congress. Credit unions are rightfully proud of their unique structure and mission and have consistently led all other types of lenders in consumer satisfaction, offer the most favorable terms on loans, and do not engage in the abusive practices that Congress sought to address through passage of the CARD Act. While we agree with some of the basic tenants of the original bill, we have significant concerns with the final legislation and the interim final rule as issued by the Federal Reserve.

First and foremost, we respectfully urge the Board to delay compliance with the 21 day notice provision for open-end lending plans, now scheduled to take effect on August 20th.

Credit unions are facing unmanageable problems in developing methods by which to comply with this requirement in the time frame provided. Just a few of the challenges include: determining the best course of action that leads to the least detrimental effect on members; educating borrowers about why due dates for loans may have to be changed; working with data processors, statement providers, and mail houses to make the necessary arrangements; and determining how to pay for the significant increase in costs of these problems will incur.

Because of the enormous difficulty in complying with this rule, and the near impossibility of compliance by the mandatory August 20th deadline, a workable solution has not been determined. In fact, Federal Reserve staff, who graciously gave their time to assist in finding compliance solutions for credit unions were left with little more than the ability to explain why most suggested courses of action would not be in compliance. This is hardly an indication of any lack of expertise on their part, but more an illustration of the enormous challenge involved. If the Federal Reserve's own legal advisors cannot determine an appropriate course of action, it is clear that a delay in implementation of the rule is not only appropriate, but absolutely necessary.

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In addition to the operational problems issues created and the burdens that the rule will place on members/borrowers, some provisions are so vague and unclear that proper guidance for credit unions cannot be determined from the interim rule. One area where this is especially true is the issue of past due loans. If a loan is past due, but payments are still being made, must the past due amount fall under the 21 day requirement? Must collection actions cease after August 20? Further complicating this question is the issue of loans with existing weekly and bi-weekly due dates. Although credit unions are considering the other consequences of being effectively forced to modify these to monthly due dates, questions arise as to how pre-existing delinquencies incurred under weekly and bi-weekly due dates are to be treated.

Credit unions offer their members open end loan plans because members want them. They receive value from the flexibility created by such plans, by being able to better structure their payments (weekly, bi-weekly, monthly) and by being able to work with the credit union to set their due date. This allows the borrower to minimize their own financial impact of repaying the loan. Unfortunately, as written the law and the accompanying rule will force credit unions to either: (a) print and send multiple loan statements to borrower; or (b) move due dates to one uniform time of the month and do away with weekly and bi-weekly due dates. The first option will create significant expenses which will be felt by the borrower in higher rates, less available credit from the credit union, or the imposition of new fees. The second option removes choices in payments, choices that our credit union members desire. Either way, this rule as currently written will result in diminished service and options for borrowers.

In addition to the problems of convenience and flexibility the current system offers, this rule effectively destroys the consumer option of setting weekly and bi-weekly due dates. Moving such existing payment schedules to one monthly due date will increase the finance charge that many borrowers face. Also, many credit union borrowers have multiple open-end loans and very rarely are they all due on the same day of each month. A borrower with multiple open end loans, with payments spread out over the course of a month, may suddenly find that all payments for all loans are due on the 28th of the month. For most borrowers, this will mean a huge hit to their account balance all at once. Because of the problems this rule creates for data processors (which is outside the control of credit unions), either the credit union will be forced to absorb the cost of this burden and borrowers will be faced with the confusion of multiple statements each month, or credit unions will have to force a change to one uniform due date. This will create cash flow problems for both the credit union AND the borrower.

The problems we outline in this comment are not remote, worst-case-scenarios. These are the actual problems that almost every credit union and every consumer with an open-end loan at their credit union will face. The situation created by this rule goes well beyond a mere "compliance" problem. It is, in fact, a forced wholesale change in the business operations of credit unions and their service to their members. This coupled with the increased potential for class action lawsuits is of great concern.

It is worth noting that these operations and service have no history of problems or abuse, and were NOT the purpose of the CARD Act's provisions. Therefore we strongly urge the Federal Reserve to take the following actions, both now and in the development of the final rule:

1. Immediately delay enforcement of the rule, to give credit unions more time to determine the best course of action to address these and other problems created by the rule;

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2. Provide clarification that this rule does not apply to open-end credit plans. If a future rule needs to clarify certain provisions of the CARD Act, it should be issued only after more careful consideration of the impact that such a rule has on the ability of lenders to make open-end loans and the ability of consumers to work individually with their lender to structure their payments in a way that is most beneficial to both parties;
3. Clarify that quarterly statements for open loans containing the due date for all three months of the quarter are proper notice which meet the 21 day requirement;
4. Clarify that all payments considered delinquent prior to the August 20th deadline, and any late fees or other actions associated with such late payments, are exempt from the enforcement of this rule; and
5. Clarify that the 21 day requirement does not apply to contractually agreed upon loans with weekly and bi-weekly due dates. This interference with private contracts will leave the credit union with little alternative but to reset the loans to single monthly due dates, creating new problems for borrowers who asked their credit union for multiple due dates.

Thank you for your consideration of our comments. This is one of the biggest issues credit unions have faced in a number of years, and it is critical that the Federal Reserve take the concerns of America's credit unions with the utmost seriousness, and work to address the problems created by this rule. Failure to do so will have lasting, and significantly detrimental effects on lenders and borrowers alike.

Sincerely,



Patrick LaPine
President and CEO
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